

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

_____)	
RIVERVIEW NURSING HOME INC.,)	
et al)	
Plaintiffs,)	
)	
v.)	C.A. No. 16-cv-579-M-LDA
)	
DARREN MCDONALD, et al.,)	
Defendants.)	
_____)	

ORDER

Plaintiffs are long-term care and/or skilled nursing facilities that participate in the federal-state Medicaid program in Rhode Island. Defendants are the state's Medicaid administrators. This matter involves the propriety of the State's action seeking to collect overpayment it alleges it made to the Plaintiffs.

The State changed the reimbursement methodology for nursing facilities for including for the period October 1, 2012 through May 3, 2013. It sought approval for the change from the Center for Medicare & Medicaid Services ("CMS"). The CMS approved the change but made it effective May 4, 2013. CMS did not agree to make the reimbursement changes retroactive. Because the State had been reimbursing nursing facilities during the October 1, 2012 through May 3, 2013 period under the "new methodology" before CMS approved it, the State sought reimbursement from those nursing facilities that the State over reimbursed when it was required to revert to the old methodology to calculate reimbursement for that period.

The Plaintiffs seek a preliminary injunction to prohibit the State from seeking reimbursement for the disputed period. However, the State responds by asserting that they "have not taken any action to pursue recoupment of the Medicaid overpayment since on or about April 25, 2016." ECF No. 32-1 at 1. In light of this representation by the State, the Court cannot find, as it would have to do to issue a preliminary injunction, that the Plaintiffs are likely to suffer irreparable harm absent an injunction. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). A scheduling order is in place for full fact and expert discovery followed by dispositive motions. ECF No. 25. The Court should allow this process to proceed before making a decision on the merits. If, however, the State again seeks recoupment of the disputed funds, then the Plaintiffs can renew their motion for a preliminary injunction.

Plaintiffs' Motion for a Preliminary Injunction (ECF No. 26) is DENIED without prejudice.

IT IS SO ORDERED.



John J. McConnell, Jr.
United States District Judge

April 14, 2017